

DRAFT 10/31/11 – SUBJECT TO CHANGE
For Review and Adoption by DSC at November 17-18, 2011 Meeting
DELTA STEWARDSHIP COUNCIL
October 27, 2011
West Sacramento City Hall Galleria
1110 West Capitol Avenue, West Sacramento, California

MEETING SUMMARY

Note: Copies of all Council meeting agendas and links for all documents can be found at the DSC website, www.deltacouncil.ca.gov. Specific links are provided in the meeting summary for those items submitted at the meeting.

Thursday, October 27, 2011, 10:00 a.m. – 4:30 p.m.

1. Welcome and Introductions

The meeting was called to order at 10:05 a.m., October 27, 2011, by Chair Phillip Isenberg.

2. Roll Call – Establish a Quorum (Water Code §85210.5)

Roll call was taken and a quorum was established with all members present (Hank Nordhoff, Patrick Johnston, Randy Fiorini, Gloria Gray, Felicia Marcus, Phillip Isenberg, and Don Nottoli).

3. Chair's Report

Following the roll call, Chair Isenberg acknowledged Mike Machado, Executive Officer of the Delta Protection Commission (DPC), who was in the audience. He also mentioned the recent newspaper articles on the Bay-Delta Conservation Plan (BDGP), and then moved directly to the Executive Officer's Report.

4. Executive Officer's Report

Joe Grindstaff began his report giving an update on the Delta Plan Draft Environmental Impact Report (EIR). Mr. Grindstaff stated it would be released next Friday, beginning a 60-day public review and comment period. Mr. Grindstaff acknowledged the request for a longer comment period and said that issue would be addressed later in the day. He complimented and expressed his appreciation to the staff and consultants for their efforts that have been put into the draft EIR. Mr. Grindstaff asked Mike Machado to present the DPC Economic Sustainability Plan (ESP) that had been approved October 25, with some reservations based on the peer review that is being planned for the following week. Mr. Machado requested Don Nottoli, who is also Chair of the DPC, brief the Council on Tuesday evening's Commission meeting. Council member Nottoli expressed his appreciation to the consultants and staff for their efforts in developing the ESP and discussed the ESP explaining the highlights of the activities that relate to the Council.

He said the ESP reflects the importance of many of the activities as they relate to the economic sustainability of the Delta and took a snapshot of the current activities and projects the impacts of what may happen if the as the Plan is developed by the Council in achieving the coequal

goals but focuses in on the importance of agriculture and its sustainability, recreation and tourism, and the infrastructure that not only supports the region but the entire state. Council member Nottoli stated he felt the report was well done and reflects a good body of work. Mr. Machado felt the report highlighted conflicts the Council has come up against in terms of how to achieve the coequal goals consistent with the policy objectives in preserving and enhancing the Delta. Mr. Machado stated the infrastructure has the same economic value as that of the water system in California. Peer reviews of the plan are planned at the Ryde Hotel and the Pagoda Building, where the plan will be discussed at length and have more of an in-depth review. The meeting notice for the peer reviews are posted at <http://deltacouncil.ca.gov/event-detail/4120>. The ESP will provide perspective that can help the Council in developing its plan to recognize and try to address the many concerns of local government in the Delta and the requirements they have in meeting local services and also recognizes the conflict in terms of trying to pursue the charge of economic sustainability with the multiple layers of regulations that exist that that create uncertainty for the type of private investment that is required for that. Council member Nottoli drew the Council's attention to the cover letter that is posted at <http://www.deltacouncil.ca.gov/public-comments/read/59>

Chair Isenberg requested a redline version or letter outlining the changes in the document after the peer review was completed and a copy that reflected the changes. The ESP that was distributed to the Council is posted at:
<http://www.delta.ca.gov/Second%20Draft%20Economic%20Sustainability%20Plan,%20July%2021.htm>

a. Legislative and Legal Update

The Legislative update was presented by Curt Miller. Mr. Miller stated that the list of legislation was the last update for the year based on adjournment actions, the Governor's signature and vetoes as of last month. Updates will resume in January. Mr. Miller also updated the Council on the budget and general fund revenues.

Chris Stevens stated there was no significant litigation matters to report on this month and anticipated a legal update at the next meeting. Chair Isenberg requested Mr. Stevens bring a summary of significant legal cases pending that would be of interest to the Council, in addition to the salmon and smelt cases.

b. Contracts Update

Mr. Grindstaff noted the inclusion of the third quarter (July-September) report on the status of current Council, Delta Science Program, and Conservancy contracts.

Chair Isenberg asked if there were any questions from the Council or members of the public – there were none.

5. Adoption of the September 22-23, 2011 Meeting Summary (Action Item)

Chair Isenberg asked if there were any questions or comments from the Council, or members of the public, on the September 22-23, 2011 Meeting Summary – there were none.

It was moved (Fiorini) and seconded (Gray) to approve the meeting summary for the September 22-23, 2011 meeting. A vote was taken (5/0: Johnston, Fiorini, Isenberg, Gray, and Nottoli. Council member Marcus abstained from the vote) and the motion to approve the meeting summary was adopted.

6. Lead Scientists' Report

Dr. Lauren Hastings briefed the Council on highlights from the 2011 State of the Estuary Conference held on September 20-21 in Oakland. Plenary sessions were held each morning of the conference and concurrent sessions on four topics, 1) species/restoration, 2) management challenges, 3) water quality and 4) sustainable communities, were held each afternoon. The first plenary session focused on the recently released report, "State of the San Francisco Bay 2011" (<http://www.sfestuary.org/StateofSFBay2011/>). The second plenary session focused on long-term sustainable use of Delta and Bay water and included a talk from Chair Phil Isenberg on "Achieving the Delta Plan's Coequal Goals". The Delta and Bay water plenary session was followed by two Delta-focused sessions, "The People Factor in Delta Ecosystem Restoration" and "Ecosystem Restoration in an Evolving Delta".

Dr. Hastings discussed the independent science reviews that the Delta Science Program was organizing. Several scientific reviews were being planned -- the Bay Delta Conservation Effects Analysis Review, the Delta Economic Sustainability Plan Review, and the 2011 Operations Criteria and Plan Annual Review.

Dr. Hastings briefed the Council on the Delta Science Program's vacancies. Chair Isenberg requested that Dr. Hastings provide an update on the status of the vacancies at the November meeting.

Next, the Council was briefed on a recent paper by Jim Cloern, et al. (2011) entitled, "Projected Evolution of California's SF Bay-Delta-River System in a Century of Climate Change". Dr. Hastings stated the project, funded by the CALFED/Delta Science Program, explored the linkages and cascading effects of climate change based on two plausible future climate conditions identified by researchers. Dr. Hastings stated the synthesis paper would serve as an example of integration among the multiple disciplines needed to inform management decisions and the analyses in the paper would be useful for guiding the development of performance measures for the Bay-Delta-River system.

Dr. Anke Muller-Solger briefed the Council on the 2011 Delta Smelt Abundance Indices and Fall Habitat Investigations conducted by the California Department of Fish and Game. Dr. Muller-Solger explained the fish monitoring surveys and stated they were an integral component of the IEP and the results were used to calculate abundance indices for a variety of fish species. Dr. Muller-Solger discussed the fall X2 study and memo from DSG regarding the fish indices. She stated they could report on how fish were doing but why the fish were doing what they were doing was a different question.

7. Delta Independent Science Board

Dr. Richard Norgaard began by mentioning his attendance at the World Water Congress held in Brazil. Dr. Norgaard stated he could report that the world was suffering just as much as California regarding water but he believed that California was ahead in the understanding of the lack of water and the need for recycling, reuse, climate change, etc.

Dr. Norgaard reported on the Delta ISB meeting that was held on October 20-21. He stated the first day of the meeting was focused on educating the ISB members on relevant Delta programs and plans. A survey was conducted and information from other science programs going on in

the Delta was collected. The second day, the ISB began to identify and prioritize the programs they plan to review. Dr. Norgaard emphasized the need for a clear understanding of adaptive management and what it entails.

8. Delta Plan Development

Joe Grindstaff presented the Delta Plan Development agenda item beginning with an overview of the item, then discussed the schedule for the EIR. Mr. Grindstaff stated it was clear that the adoption of the Plan would not be on the first of January as originally anticipated. Mr. Grindstaff acknowledged that the development of the EIR was a complex and difficult task. Mr. Grindstaff stated the Draft EIR would be released next Friday, through the State clearinghouse and a 60 day public review and comment period would begin. Two public hearings have been scheduled – November 17 and December 15, at which members of the public may offer oral comments on the draft EIR. Council Member Gray requested the comment period be extended beyond January 3. It was anticipated, based upon a 60 day comment period that on January 26-27 comments on the 5th staff draft and comments on the EIR would be presented to the Council for direction on the development of the 6th staff draft. The 6th staff draft would be presented to the Council on February 23-24, with adoption anticipated in late March or early April 2012. The regulatory portion of the plan would be forwarded to the OAL at that time to begin the State regulatory process. Mr. Grindstaff stated that depending on what happened with the EIR and comments and changes directed by the Council, as well as any changes made through the rulemaking process the schedule could be delayed.

Council Member Gray requested the comment period be extended to 90 days in order to make sure that all stakeholders are provided adequate time to comment. Member Nottoli agreed with extending the comment period.

A follow-up work session on Covered Actions is being scheduled. Member Gray expressed appreciation for the work sessions and requested follow-up work sessions on Governance and Finance. She felt the work sessions provided clarity and felt it was important to consider having them on all issues or items that required clarity, such as finance. At the November meeting, Keith Coolidge will explain to the Council how to proceed with these additional sessions and will present a proposed schedule of dates.

Chair Isenberg requested staff prepare a revised schedule for completion of the Delta Plan Draft EIR and Delta Plan including extending the comment period for the draft DPEIR and also to expand the locations of the public hearings to Northern, Central and Southern California (possibly Los Angeles and San Diego).

9. Overview of Delta Plan Draft Environmental Impact Report (Draft EIR)

Prior to the discussion of Agenda Item 9, Chair Isenberg left the meeting to attend a memorial service and Vice Chair Fiorini presided over the Council meeting in his absence.

Joe Grindstaff expressed appreciation for all the work done on the Draft EIR. Vice Chair Fiorini, on behalf of the Council, offered words of encouragement and appreciation for staying the course and stated that the delay was understandable. Council member Nottoli echoed Vice Chair Fiorini's appreciation.

The discussion began with a schedule status given by Deputy Attorney General Jim Andrew, who is providing technical CEQA advice on the EIR process. Mr. Andrew presented a PowerPoint on the status and summary of approach on the draft EIR. The presentation discussed the schedule and conceptual approach used for developing the EIR for the Council to use as a framework. Mr. Andrew's presentation is posted on the DSC website at: http://deltacouncil.ca.gov/sites/default/files/documents/files/Update%20on%20DSC's%20EIR%20Process%20w-DSC%20Background%20%2010-28-11.doc_0.pdf.

The Council members were in agreement regarding a discussion at the November 17th meeting on extending the comment period and holding regional hearings in order to not limit the ability for the public to comment. Mr. Andrew explained what the draft EIR contained and the EIR process. He stressed that the draft EIR was a big technical, analytical document, not a policy document. The comments requested will be on the accuracy of the technical document. Mr. Andrew pointed out that if the comment period was extended the deadline to adopt the plan would need to be extended. Mr. Grindstaff suggested having a workshop on the Plan itself, allowing the public to comment on the policy aspect rather than the technical document. Mr. Andrew agreed and emphasized this draft EIR was a program document. Following Mr. Andrew's presentation and clarifying remarks, Vice Chair Fiorini asked if there were any questions or comments from members of the public.

10. Public Comment

David Nesmith, Environmental Water Caucus, wanted to emphasize a couple of items that were included in their letter submitted to the Council and posted at: <http://www.deltacouncil.ca.gov/docs/2011-10-14/john-laird-and-dr-jerry-meral-ca-resources-agency-david-hayes-us-dept-interior-and-m>

He felt there was a need for specificity in several parts of the planning process, specifically regarding Public Trust. Mr. Nesmith requested definitions of a reliable water supply and what it means to enhance the Delta ecosystem, what actions are necessary to enhance Delta as a place, as well as what regional self reliance and reduced dependence on the Delta look like. Mr. Nesmith stated the Bay Area is dependent on the water from the Delta but he feels they do not realize how dependent they are on the Delta. Mr. Nesmith felt there was a lack of economic analysis of Public Trust values in the Plan. He also stated he felt the goals and objectives should be science based. Regarding governance, page 54, line 57, he suggested changing the word from "promote" to "meet" – stating stronger language would be more meaningful and useful. Mr. Nesmith also stated that water supply reliability should be linked in the Plan to specific milestones and goals (specific ecological goals).

Pete Kutras, Delta Counties Coalition, commented on the DEIR public comment period and the proposed public comment meetings. Mr. Kutras cautioned the Council not to rush this last process and requested a public comment period of 90-120 days, recognizing the implementation date would be moved. Mr. Kutras stated the counties do not have the resources to respond/comment within the current timeframe. Mr. Kutras also felt the Council should arrange additional public comment meeting times, not workshops, because he was concerned that the Council would not have to respond to comments at an EIR workshop. Mr. Kutras also suggested having a road show once the Delta Plan has been adopted to explain what it is and isn't to the public.

Burt Wilson, commented on the improved health of the salmon and felt it was not due to science but due to federal regulations that reduced diversions at the pumps. Mr. Wilson said he was recently at a meeting and stated the participants of the meeting were not aware of a "no conveyance" alternative. He also was concerned with saltwater intrusion and stated it was

being discussed by the five congressional members. He also requested the flow data past Chips Island – what it takes to prevent salinity from coming in, stating if he has been trying but unable to get that information from DWR. Mr. Wilson stated he thought he heard that the EIR would not evaluate projects when specifics are not known and was concerned that projects might get into the plan because specifics were not known and would like to see that prevented.

Greg Zlotnick, State and Federal Contractors Water Agency, commented that the public comment period should be extended to 75-90 days. He also had questions on the presentation and wondered if the document would analyze the five project categories that were outlined in the slides as they have cross-benefits. Mr. Zlotnick also commented on the no action alternative and asked how BDCP will be dealt with. He was concerned that without a BDCP analysis, would projects be picked out of BDCP? Mr. Zlotnick also requested a calendar for the EIR and would like to see a Delta Plan development schedule and wondered how the “response to comments” fit in.

Tom Zuckerman stated that this was going to be a very unusual EIR and felt a 60 day comment period was unrealistic under these circumstances. He felt the comment period should be extended to allow more time for the public for respond.

Pete Kampa, Tuolumne Utilities District, stated he was in agreement with the other commenters about any additional meetings that could be provided and extending the comment period would be much appreciated. He requested clarity from the panel on the alternatives provided by the Ag/Urban Coalition stating that one of their slides said that the alternatives were being considered but the next slide said that those alternatives that were considered to do less were going to have more impact and questioned what “do less” meant and had hoped to get feedback from the panel.

Mark Rentz, Association of California Water Agencies, encouraged the Council to reach out to the public. Mr. Rentz requested a copy of the presentation and asked how the Council was going to define success. Mr. Rentz said, as he read the slides, that there were assumptions based upon assumptions based upon assumptions and supported Council member Marcus’ suggestions about public education.

Chris Stevens and Joe Grindstaff provided clarification of the EIR process for the commenters in the panel’s absence.

Vice Chair Fiorini asked if there were any other members of the public wishing to address the Council – there were none.

- 11. Preparation for Next Council Meeting – Discuss (a) expected agenda items; (b) new work assignments for staff; (c) requests of other agencies; (d) other requests from Council members; and (e) confirm next meeting date – November 17-18, at the Sheraton Grand Hotel on J Street. The public hearing to take oral comments on the Delta Plan Draft EIR will be held on the first day of the meeting – November 17, from 1-4:30 p.m. A court reporter will be present to record the comments for inclusion in the EIR formal public record and to enable Council staff to respond accurately to the comments.**

The meeting was adjourned at 1:02 p.m.